

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

SYMANTEC CORPORATION,

No. C 12-00700 SI

Plaintiff,

**ORDER GRANTING VEEAM'S MOTION
TO SEAL**

v.

VEEAM SOFTWARE CORPORATION,

Defendant.

On June 6, 2014, defendant Veeam Software Corporation ("Veeam") filed a motion to stay with accompanying exhibits and a motion to seal. Docket Nos. 215-217. On June 11, 2014, Veeam filed a motion to remove its incorrectly filed motion to stay and exhibits B and C to the declaration of Byron Pickard in support of Veeam's motion to stay. Docket No. 223. On June 13, 2014, the Court granted Veeam's motion to remove the incorrectly filed documents and substituted corrected versions of the motion to stay and exhibits B and C in the public record. Docket No. 227. Currently before the Court is Veeam's motion to seal portions of its motion to stay and exhibits B, C, D, and F to the Pickard declaration in support of Veeam's motion to stay. Docket No. 217.

With the exception of a narrow range of documents that are "traditionally kept secret," courts begin their sealing analysis with "a strong presumption in favor of access." *Foltz v. State Farm Mut. Auto. Ins.*, 331 F.3d 1122, 1135 (9th Cir. 2003). When applying to file documents under seal in connection with a dispositive motion, the submitting party bears the burden of "articulating compelling reasons supported by specific factual findings that outweigh the general history of access and the public

1 policies favoring disclosure, such as the public interest in understanding the judicial process.”
 2 *Kamakana v. City and County of Honolulu*, 447 F.3d 1172, 1178-79 (9th Cir. 2006) (internal quotations
 3 and citations omitted). However, when a party seeks to seal documents attached to a non-dispositive
 4 motion, a showing of “good cause” under Federal Rule of Civil Procedure 26(c) is sufficient. *Id.* at
 5 1179-80; *see also* Fed. R. Civ. P. 26(c). In addition, all requests to file under seal must be “narrowly
 6 tailored,” such that only sealable information is sought to be redacted from public access. Civil Local
 7 Rule 79-5(b). Because Veeam’s motion to stay is a non-dispositive motion, the “good cause” standard
 8 applies. *See SEC v. CMKM Diamonds, Inc.*, 729 F.3d 1248, 1260 (9th Cir. 2013) (stating that a motion
 9 to stay is a non-dispositive motion).


10 Veeam moves to seal its motion to stay and exhibits B, C, D, and F to the Pickard declaration
 11 in support of Veeam’s motion. Docket No. 217. To make the showing of good cause, the moving party
 12 must make a “particularized showing” that ““specific prejudice or harm”” will result if the information
 13 is disclosed. *Kamakana*, 447 F.3d at 1180, 1186; *accord Phillips ex rel. Estates of Byrd v. Gen. Motors*
 14 *Corp.*, 307 F.3d 1206, 1210-11 (9th Cir. 2002). “Broad allegations of harm, unsubstantiated by specific
 15 examples of articulated reasoning” are insufficient to establish good cause. *Beckman Indus., Inc. v. Int’l*
 16 *Ins. Co.*, 966 F.2d 470, 476 (9th Cir. 1992).

17 Veeam has submitted the declaration of Byron Pickard in support of its motion to seal. Docket
 18 No. 217-1, Pickard Decl. Veeam argues that its motion to stay cites to and excerpts portions of
 19 documents designated by both parties as “Highly Confidential” or “Highly Confidential - Attorney’s
 20 Eyes Only” pursuant to the amended stipulated protective order signed by the Court on March 27, 2013.
 21 Pickard Decl. ¶ 9. Veeam also argues that exhibits B, C, D, and F to the Pickard declaration in support
 22 of Veeam’s motion include portions of expert reports which have been designated “Confidential
 23 Information Subject to Protective Order” or “Highly Confidential.” *Id.* ¶¶ 4-9. Veeam explains that the
 24 disclosure of this information could cause both parties competitive harm because the documents reveal
 25 confidential financial, marketing, and sales information. *Id.*; Docket No. 230-1, Cassidy Decl. ¶¶ 13-15.
 26 After reviewing the attached declaration, the Court concludes that Veeam has shown good cause for
 27 sealing portions of its motion to stay and exhibits B, C, D, and F to the Pickard declaration in support
 28 of Veeam’s motion to stay.

1 In addition, Veeam's request is narrowly tailored because it seeks to redact only the sealable
2 information from the motion and the exhibits. Accordingly, the Court GRANTS Veeam's motion to
3 seal. Docket No. 217.

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5 **IT IS SO ORDERED.**

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8 Dated: June 24, 2014



SUSAN ILLSTON
UNITED STATES DISTRICT JUDGE